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Marsden, Chris

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In Defence of Corporate Responsibility

CHRIS MARSDEN*

*Two serious criticisms of CSR have emerged from separate ends of the political spectrum. They are levelled at the heart of the purpose of business and what companies, particularly large companies are responsible for. From the Left, Joel Bakan, in his book and subsequent film, *The Corporation*, alleges that CSR is a smokescreen, enabling companies to hide their bad practices and strengthen their ability to resist regulation by government. From the Right, *The Economist*, building on arguments that hark back to Milton Friedman and even Adam Smith, has argued that CSR is a waste of resources, distracting companies from their core roles of producing goods and services, and making profits. These criticisms are misguided but they have intellectual foundations; as such they risk undermining much that is important and require rebuttal. Both overplay the role that governments can and will play in regulating how companies behave, and underestimate the positive contribution that NGOs can make in shaping the social environment in which businesses operate. This paper argues that corporate responsibility (CR not CSR) cannot justifiably be seen as a hindrance to the effective evolution of a proper market governance system. On the contrary it is a crucial part of the only realistic game in town and could become the key building block in such an evolution.*

Keywords: corporation, social responsibility, globalisation, governance

1. Introduction

Once a fringe idea, corporate social responsibility (CSR) is now part of the business mainstream. Most major companies have CSR policies and leading Chief Executive Officers (CEOs) regularly acknowledge their wider responsibilities to society and the environment. Lacking precise definition, CSR has thrived as a general 'motherhood' concept but has suffered because it encompasses such a wide range of business activity from supporting good causes and investment in community projects to employment practices and environmental and human rights impact management. CSR has always attracted its fair share of critics. Detractors have dismissed it as corporate philanthropy¹ by another name or worse, as meaningless froth. Now, two more serious

* Chris Marsden is Chair of the Amnesty International (UK) Business Group and Chair of Trustees of the Business and Human Rights Resource Centre. He is also visiting professor at the International School of Management of the Ecole Nationale des Ponts et Chaussées in Paris. He was formerly Head of Community affairs with BP. Chris Marsden, 45 Bloomfield Road, Harpenden, Hertfordshire, AL5 4DD, UK, phone: +44-1582-762844, e-mail: clmarsden@ntlworld.com.

¹ Corporate philanthropy as pure philanthropy is justly criticised because it amounts to directors giving away the shareholders money (often for their own personal reasons) instead of giving it back to the shareholders to decide what they want to do with it. If, as is often the case, such payments are strategic investment in community relations or image building, then they are not strictly philanthropy. Community investment is part, but only a small part, of a company's overall impact on social and environmental issues and, therefore, its social responsibility.

criticisms of CSR have emerged from separate ends of the political spectrum. This is not about philanthropy or giving something back to society as some kind of conscience-easer for taking so much out. It is levelled at the heart of the purpose of business and what companies, particularly large companies,² are responsible for. It is about whether companies should take account of social and environmental concerns beyond those that clearly affect a company's operating capabilities.

In his book and subsequent film, *The Corporation*, Joel Bakan alleges that CSR is a smokescreen, enabling companies to hide their bad practices and strengthen their ability to resist regulation by government (Bakan 2004: 151). Separately, *The Economist* (2005) has argued that CSR is a waste of resources, distracting companies from their core roles of producing goods and services, and making profits. These criticisms are misguided but they have intellectual foundations and require rebuttal. Both overplay the role that governments can and will play in regulating how companies behave, and underestimate the positive contribution that NGOs can make in shaping the social environment in which businesses operate. They also exploit the confusion which surrounds the meaning of CSR. By attacking, with some justification, some aspects of CSR and its abuse, they threaten to undermine the fundamental notion of corporate responsibility (CR),³ which was never a fringe idea; it simply was not seen to encompass the range of issues which have to be confronted today. Unlike CSR, which too often seems to describe widely varying lists of activities, CR is a way of doing business which takes into account all of a company's impacts on society.

Bakan says that CSR presents a potentially dangerous sop enabling companies to appear to be addressing their social and environmental 'externalities' and thereby distracting pressure for government intervention and proper regulation. He argues that robust nongovernmental institutions and community activism, though vital contributors, can never be a substitute for government regulation. "Many among the corporate elite and their defenders would likely sing 'Hallelujah' the day activists against corporate abuse abandoned government. That is, after all, what many business leaders want: replacement of government regulation of corporations with market forces, perhaps shaped by the oversight of nongovernmental organisations (with no legal powers) and the demands of conscientious consumers and shareholders (with minimal effects)" (Bakan 2004: 151).

The *Economist* argues that free enterprise capitalism provides huge value for society and for this to take place most efficiently companies need to focus on what they do best, competing for market share and maximising returns for shareholders, undis-

² Large companies individually have greater potential to affect the environment and social issues, to have command over resources, to control information, gain uncompetitive market share and exert undue influence.

³ Corporate Social Responsibility, especially its initials CSR, has become the widely used shorthand term to cover any or all of a list of activities from corporate philanthropy (see footnote 1 above) to the responsible management of a company's external impacts on society. The concept is wide open to misinterpretation and abuse. The term corporate responsibility (CR) is preferred here and will be used for the remainder of this paper as it denotes a way of doing business which takes account of a company's full range of responsibilities to all its stakeholders, not just its social ones and especially not just its 'philanthropic' ones.

tracted by environmental and social agendas which are the proper concern of governments.

“Through the action of (Adam) Smith’s invisible hand, the private search for profit does advance the public interest. There is no need for thought-leaders in CSR armed with initiatives and compacts to bring this about. It is an error to suppose that profit-seeking, as such, fails to advance the public good, and that special efforts to give something back to society are needed to redeem it” (The Economist 2005).

In a narrow sense, they are both right. Bakan justly accuses many companies of hiding under a pretence of social responsibility. The Economist’s argument that the public interest regarding the production and distribution of goods and services is likely to be served best by market players pursuing their self interest in a competitive market place has been well rehearsed ever since Adam Smith invented the concept of the ‘invisible hand’. Nevertheless economic theory (e.g. the unreality of assumptions underpinning competition theory) and experience of market failure show that public welfare cannot be left entirely to the product of individuals and groups pursuing self-interest. The Economist quite correctly argues:

“As a general rule, correcting market failure is best left to government. Business cannot be trusted to get it right. Settling such questions (as global warming) exceeds the competence and proper remit of private enterprise. (...) The proper guardians of the public interest are governments, which are accountable to all citizens. It is the job of elected politicians to set goals for regulators, to deal with externalities, to mediate among different interests, to attend to the demands of social justice, to provide public goods and collect the taxes to pay for them, to establish collective priorities where that is necessary and appropriate, and to organise resources accordingly. The proper business of business is business” (The Economist 2005).

Where they are both wrong, however, is in their implicit assumptions that the exercising of corporate responsibility has no positive effects and that positive effects can only be achieved through government action. The gaping hole in both Bakan’s call for more government regulation and the Economist’s assertion as to the proper role of government in regulating the market place is not that this should not ideally happen – of course it should – but that it is very unlikely to, certainly to the necessary degree, in the foreseeable future. The governance paradigm has changed, although many with vested interests in the old system do not, or do not want to, recognise it. The cosy idea that companies can be left to pursue the narrow interests of their shareholders because the interests of other groups are either factored into the company’s business model or looked after by a strong, representative government and fair legal system simply no longer holds up.

There may be countries in the ‘First World’ where this state of affairs more or less still exists. Certainly there are many people who assume that it does still exist. But even in these countries, the ability of governments to regulate and tax their larger companies, particularly multinational companies, is increasingly inadequate. Reasons include the need to prioritise global competitiveness, the increasing complexities of company technologies and organisational and financial structures with which government offi-

cials struggle to keep up, and the difficulties of applying domestic law to international activities.

Beyond the relatively well-regulated 'First World' economies, regulation and the rule of law varies from weak to non-existent. This needs to be seen at two levels.

Firstly, in the vast majority of countries, companies face very little regulation. This is because even diligent governments struggle to regulate for the public interest effectively, while many others either do not try very hard or are plain corrupt. Large companies, whether domestic, private or state owned, or multinational, are often faced with huge environmental and social issues, with which governments are either not coping or wilfully disregarding. Should they just wring their corporate hands, say that these are matters for the government and blithely ignore them? If they do, are they not in some way complicit in the environmental or social harm that is being done, either directly or indirectly associated with their activities?

Secondly, increasingly, markets and the companies operating in them are global. National boundaries are increasingly irrelevant to movements of information, capital, goods and even people. Many of the leading environmental and social issues are also global in nature and need global strategies to address them. As with such issues at the national level, ideally it should be governments and the law that deal with them. But there is no effective system of global government or global cooperation of national governments and only some embryonic concepts of international law. Therefore, should not multinational companies, which often have global logistic, technical and financial capabilities, which exceed many national governments, play an active part in addressing the issues?

The fact is multinational companies are major players in these spheres. They are not democratic, they are inclined to 'greenwash'⁴ to being two-faced, and even in Bakan's terms 'pathological'. They have huge potential to contribute positively towards these issues, way beyond the value of their product or services and the employment they provide, as well as huge potential to do harm. If we cannot regulate and hold these companies to account through the law to ensure business is done in a way that these social and environmental issues are properly factored into market decision making, then other ways must be found. This is where corporate responsibility comes in. The crucial roles of civil society groups and responsible governments are to press with all carrots and sticks that can be found for the increasing internalisation of CR into core business practices.

The questions, therefore, should not be about whether companies accepting a wider set of environmental and social responsibilities (full CR) is the right way to address market failure. Rather, they are:

- (1) Can CR make a positive contribution to public welfare (beyond the value of a company's product or service and the incomes it generates)?

⁴ 'Greenwash' or 'Bluewash': a company talking up its CR policy and programme, including membership of a voluntary association and signature to agreed principles or guidelines (in the case of bluewash to the UN Global Compact), while doing very little in practice.

- (2) Does CR distract companies from creating the full value of their product or service?
- (3) Is CR a point of departure towards or a hindrance to the evolution of a better market governance system?

If CR can make a positive difference, then surely it should be encouraged. If making that positive difference somehow detracts from a company's ability to deliver its product or service efficiently, then that needs to be properly understood and managed. If encouraging CR is seen as a potential hindrance to the evolution of a better governance system, then that danger needs to be openly recognised, debated and countered.

This begs a fourth question:

- (4) What can leading companies, their business associations, civil society organisations and governments do to make the importance of CR better understood and better implemented?

These four questions are addressed below.

2. Making a positive difference

For all the understandable accusations of corporate 'greenwash' and in relation to the UN Global Compact, 'bluewash', it is hard to deny that a significant number of leading multinational companies have improved their environmental and social performance. This may still be far below what many would regard as acceptable and many more companies may still have hardly begun the CR awakening process, but it is progress. It is hard to be definite about the extent of this contribution and this would certainly be a fertile area for more detailed research. This conclusion is reinforced by Margolis and Walsh in their paper 'Misery loves Companies; rethinking social initiatives by business' (Margolis/Walsh 2003), which argues for a shift of academic research emphasis from the frustrating and perhaps futile attempt to prove a causal link between corporate social performance and economic performance to 'questions about what it is firms are actually doing in response to social misery and what effects corporate actions have, not only on the bottom line but also on society'. Margolis and Walsh pose the following research questions:

- 'Do companies really make a concrete difference in curing social ills when they act as though they can do so?'
- 'How can the assumed truth that companies can be effective agents, not just of economic efficiency but of social repair, be realized?'
- 'How can the concrete differences be achieved?'
- 'What are the conditions under which, and the processes through which, the intended beneficiaries and institutions central to a healthy society indeed benefit from these corporate actions?'

While the lengthy process of academic research adapts to this important proposal, the following examples at least seem to indicate hopeful, if still inadequate progress.

FSC & MSC

Both the Forestry and Marine Stewardship Councils (FSC and MSC) represent small but significant attempts at sustainability governance by agreements between companies and NGOs. B&Q, a leading UK hardware chainstore, uses the FSC standards for its hard wood products. The company states “All virgin wood bought by B&Q will come from forests of known location where the supplier has given us sufficient reassurance that the forest is well managed and independently certified as such. Certification must include the ability to trace the wood from the forest to the final processor with certified “chain of custody” (B&Q timber buying policy 2000). FSC news January 2005 states “The largest DIY retailer in the United Kingdom (UK), B&Q has signed a deal with the certification body SmartWood, a programme of the Rainforest Alliance, to certify its key stores to the Forest Stewardship Council (FSC) chain of custody standards.

B&Q is targeting business customers such as government and local authority purchasing departments as well as general trade customers who are increasingly demanding timber and manufactured wooden products from well managed forests.⁵

The more recently started Marine Stewardship Council in its 2004 report⁶ gives a number of examples of well known companies adopting its standard, for example:

“Leading UK retailer Waitrose has developed its first own brand MSC product (...) wild Alaska smoked salmon (...) Waitrose held training sessions on the MSC for all its fish-counter staff ahead of launching the product, demonstrating their strong commitment to the programme”. The Daily Telegraph in March 2004 reported that “The MSC’s little blue logo is gradually becoming the fishing world’s equivalent of the Soil Association’s mark. It’s a sign of sustainability that the accredited fishery has, in contrast to many others, a future”.

NOVARTIS

Novartis, the Swiss based pharmaceutical company, reports: “In May 2001, Novartis committed to a unique public-private collaboration agreement with the World Health Organization (WHO) in the fight against malaria. Novartis agreed to make Coartem®, currently the only oral fixed dose artemisinin-based combination therapy (ACT), available on a “not-for-profit” basis for distribution to public sector agencies of malaria-endemic developing countries. Through grants provided by the Global Fund For AIDS, Malaria and Tuberculosis, Novartis has equally undertaken to supply Coartem, under the aegis of WHO, to public sector agencies. The partnership aims at establishing sustainable supply chains for distribution via support programs covering stock management/forecasting and operational research; improving treatment regimens in malaria-endemic countries via support of health care education and community awareness of treatment policies and use of Coartem; and monitoring systems for new malaria drugs in the developing world Beyond providing the treatment, Novartis supports a capacity building program in Zambia. This program aims at ensuring optimal

⁵ See www.fsc.org.

⁶ See www.msc.org.

levels of patient access to the drug and includes conducting operational research, raising community awareness and educating healthcare workers”.⁷

NOVO NORDISK

Another healthcare company, Novo Nordisk, as part of its “Sustainable Supply Chain Management” has developed a “Supplier Evaluation Programme”. The programme was initiated as part of Novo Nordisk’s commitment to environmental and social responsibility. The Company claims to be “actively seeking to promote social responsibility and a good environmental performance across our business operations. We believe that people should be treated fairly and that the impact on the environment should be minimised. We do this not only to manage our risk effectively but also because we think it is the right thing to do. As a truly responsible business, we should be able to account for all our activities. If our suppliers are found to be environmentally and socially negligent, it reflects badly on us. We therefore expect our suppliers to comply with both local legislation and international standards on environmental management and human rights. (...) In 2003 we asked our suppliers’ opinions on the evaluation programme. An independent study was carried out by an external party (NOP Healthcare) on behalf of Novo Nordisk.(...) A large majority of suppliers agreed that they had a good dialogue with the contact person at Novo Nordisk. (...) More than half (56%) of our suppliers believed that Novo Nordisk’s programme had a positive impact on their internal operations”.⁸

As Simon Zadek explains in his recent Harvard Business Review article (Zadek 2004) the Company is also leading the way in dialogue with other key stakeholders. “Danish pharmaceutical company Novo Nordisk has created a practical tool to track societal learning on some of its core business issues - animal testing, genetically modified organisms, and access to drugs. The drugmaker’s approach can be adapted and used by any company facing any number of issues. In the early stages, issues tend to be vague and their potential significance well below conventional thresholds used by the financial community to determine materiality. These issues are often first identified through a company’s interactions with non-traditional sources of knowledge, such as social activists. As one senior business manager explains, when he deals with nongovernmental organizations, “I see the future of our markets, our products, and this business”.

GAP & REEBOK

Gap Inc, the US clothing multinational, asserts⁹ that “improving garment factory conditions is a central element to our overall commitment to social responsibility”. The company has drawn up a ‘Code of Vendor Conduct’ and reports that in 2003, 8.500 visits to garment factories were made and provides details of the levels of code violation in different regions and what is being done about them.

⁷ See www.novartis.com.

⁸ See www.novonordisk.com.

⁹ See www.gap.com.

Another well known brand in the clothing and footwear industry, Reebok, has developed an impressive worker communication system, which provides workers with a secure way of expressing concerns in a manner which enables the company's management to focus on specific issues as they arise. The company has openly accepted the principles of freedom of association and collective bargaining and is actively pursuing this in difficult places like Indonesia and China. The Boston Globe in January 2005 reported that Reebok is supporting a new organization called the Fair Factories Clearinghouse. It will help develop and distribute a piece of software that was originally built by the Company's technology group to track the working conditions at factories where Reebok's shoes and apparel are made.

SHELL

A number of companies are leading the drive to counter the prevalence of bribery and facilitation payments in so many countries in the world. Among these, the oil company Shell has established a very clear 'no bribes' policy. The Company has produced management primers on bribery, corruption and related dilemmas. Most of its national operations have procedures to prevent facilitation payments by staff, contractors and suppliers. Proven incidents of bribery are reported (8 in 2003) and offenders disciplined.¹⁰

BP

Finally, another oil company, BP, has recently helped to advance the role played by such companies in the protection of human rights. Although the Company has a strong policy commitment on human rights, based on the Universal Declaration, it found itself inadvertently in danger of potentially denying human rights to the indigenous communities living along the path of the Baku-Tbilisi-Ceyhan ("BTC") oil and gas pipeline project, for which BP is the lead contractor. A detailed report by Amnesty International 'Human Rights on the Line' (Amnesty International 2003), demonstrated that the Project Agreements could have a 'chilling effect' on the host governments' willingness to enforce their human rights, labour rights, and environmental obligations pursuant to international treaties. Amnesty warned that the land acquisition could have the effect of resettling the 30,000 people who would be forced to give up their land rights to make way for the pipeline; there could be inadequate enforcement of health and safety legislation to protect workers and local people; and there could be a serious risk to the human rights of any individuals who protest against the pipeline. Amnesty expressed particular concern that the Host Government Agreements (HGAs) would create a disincentive for the host countries to protect human rights because the governments have agreed to pay compensation to the BTC consortium if pipeline construction or operation is disturbed pursuant to the HGA clause indicating that host countries are liable for any disruption to the economic equilibrium of the project. Having participated in a public meeting to launch the report and after due consideration of the arguments BP accepted Amnesty's conclusions. After lengthy negotiations between lawyers representing the two organisations a compromise set-

¹⁰ See www.shell.com.

tlement was reached in which a Deed Poll (a legally binding contract designed to protect the rights of the three host governments to promote and regulate human rights and environmental issues) was drafted and then signed by the BTC Project. Subsequent to this agreement, BP and Amnesty have had discussions with the IFC, which provided loans to the BTC project. It is to be hoped that these and future talks will pave the way for the IFC to create guidelines for the HGAs of similar projects in the future to contain adequate provision for human rights protection.

There would seem to be enough probability here that large companies can make a positive difference to justify taking the precautionary principle and act on that assumption. This is surely more than a mere smokescreen, designed to distract governments from taking proper regulatory control, which is the thrust of Joel Bakan's argument. To quote the Margolis and Walsh paper again: 'We suggest adopting a pragmatic stance toward questions about the firm's role in society, one articulated most clearly by William James: "Grant an idea or belief to be true", it [pragmatism] says, "what concrete difference will its being true make in anyone's actual life? How will the truth be realized? What experiences will be different from those that would obtain if the belief were false? What, in short, is the truth's cash-value in experiential terms?"' The first step of James's pragmatic approach is to assume that an idea is true. In this case, we need to begin with the idea that organisations can play an effective role in ameliorating social misery. From that beginning, pragmatism then instructs us to look at the consequences of acting on this belief. "Do companies really make a concrete difference in curing social ills when they act as though they can do so?" (Margolis/Walsh 2003).

3. CR a distraction from the real business of business?

The objection to companies devoting resources to external social concerns, a principal argument of the Economist, which goes back at least to Friedman's insistence that "the business of business is business" (Friedman 1970), is that it diverts management from its proper and most value creating role, not just value for shareholders but also for society as a whole. There can be no doubt that taking account of the environmental and social impacts of a company, both negative and potentially positive, adds to the accounting costs, requires greater management expertise and time and adds complexity through the loss of having just one bottom line objective and success measure. In that sense proper attention to CR by companies might cause certain products to be more expensive or produced in lower quantities. But that is what should happen anyway if the regulatory environment did what Bakan and The Economist argue that it should, namely ensure that environmental and social costs inflicted by companies were either paid for through taxes or prevented by law. So the main point must be not that these 'external' costs are 'internalised' but that it is too difficult and beyond the competence of business managers to handle these issues and therefore undermines the effective functioning of the company.

This may be so. But should business be allowed to be that simple; protected from understanding and managing all aspects of its value creation and destruction? There may be painful transition processes but should not companies be expected to adapt to

these higher expectations of performance? It can be done as the transformation of BP's exploration business shows.

During the 1980s and early '90s, BP developed and produced most of its oil and gas from fields it had discovered in the North Sea and Alaska. This was done with brilliant technology and considerable, if inadequate in the views of some, attention to the environment. As these fields began to be depleted, most of the Company's new oil and gas discoveries were made in places with very different problems, like Colombia, Angola and Papua, Indonesia. At first, BP relied on staff with experience of the North Sea and Alaska, to develop its production sites in the Casanare region of Colombia. These were mainly highly skilled engineers, driven by production targets and used to delivering on time. They had not come across social issues before. If there was a security problem, put up barbed wire fences and get the army in to protect you. If the locals are unhappy, hire a team to build a school, improve the water supply or support new business ventures. Problem solved. Not so. The Colombian army had another agenda, its war against 'terrorists', and BP got sucked in by association to the human rights abuses in which the army was implicated. BP's social projects, while admirable in themselves, were so totally separated from company personnel and the oil development work that no real links were made and no mutual understanding with the local community developed.

Following reputation damaging media reports and much internal management debate, BP has evolved a strategy to deal with this new reality of doing business in places with major social problems, often associated with conflict. It has been a leading participant in the Voluntary Principles on Security and Human Rights,¹¹ it has developed guidelines, training, management and reporting systems on these issues, including engaging with difficult governments. It is also working on much stronger stakeholder engagement, particularly with local communities, and is much more transparent about what it is doing in its public reporting processes. The Company still faces many problems and makes many mistakes (Donnan 2005) but it is a clear example of how management can adapt successfully to having to take account of wider issues than the immediate bottom line. And there is no suggestion that these activities are a distraction from the company's profit-making business. On the contrary they are a necessary, if often frustrating and difficult, part of doing business and the better BP gets at these things the more successful the company will be.

To be fair to the Economist articles, they do include the assertion that "managers ought to behave ethically as they pursue proper business of maximising owner value – and that puts real constraints on their actions". The article quotes from Elaine Sternberg's book 'Just Business' saying that owner value excludes "lying, cheating, stealing, killing, coercion, physical violence and most illegalit". Instead honesty, fairness and ordinary decency are called for. Splendid, but as Sir Geoffrey Chandler (2005) points out in his letter responding to the Economist articles "[the] challenge is the prevailing public distrust of companies arising from the perception that profit precedes principle, rather than being based upon it. Nothing could better illustrate the validity of this perception than the recent twentieth anniversary of the Bhopal disaster – one of the

¹¹ See www.voluntaryprinciples.org.

worst examples of safety being compromised and adequate compensation denied in the interest of corporate profit. (...) Certainly a company whose practices are based on 'ordinary decency' will thrive, but this attractively naïve concept is unlikely to be helpful to those who actually have to manage in the many countries today characterised by unrepresentative government, corruption, discrimination, violence and human rights violations". Managers may be the agents of the owners and obligated to do their best to provide them with value but they are also guardians of ethical values and assurance that value is created honestly and without undue cost in terms of adverse environmental and social impact. All responsible large companies, especially multinational companies operating across national borders and differing cultures and value systems need to support their managers with carefully thought-out value statements, policies, codes of behaviour, training, support, monitoring and reporting systems.

4. Is CR a point of departure towards or a hindrance to the evolution of a better market governance system?

The main problem is not so much that behaving responsibly is a distraction from single-minded pursuit of profitability but that the responsible company's competitors may not play by the same rules. This is what business people call the problem of 'the level playing field'. Ideally this should be provided by government. Whether ultimately this will come in the form of a global convergence towards one system of government and society based on a concept of 'market democracy' underpinned by international law or a complex mixture of co-existing country-based governing structures, or some other scenario, is hard to foresee. But government provided level playing fields are unlikely to happen anytime soon. They may never happen. So anything that can be done in the meantime to make things even a little bit better by working on and with organisations that can make a real difference on the ground must be worthwhile. Encouraging the positive application of CR, the development of voluntary codes of practice, norms and reporting systems, could gradually enable the evolution of a better governance system as expectations develop into 'soft law', which in turn evolves into 'harder' law. CR can hardly be accused of hindering the evolution of a better market governance system, when there is no evidence of such evolution taking place without CR taking a leading role. The challenge is how to make playing fields less sloped in favour of the bad guys in an under or inconsistently regulated market place, while at the same time working towards the ideal of effective and enforceable regulation. It is a challenge for those in a position to influence company behaviour, in particular the companies themselves, their business associations, civil society organisations or NGOs and national governments.

5. What can leading companies, their business associations, civil society organisations and governments do to make the importance of CR better understood and better implemented?

There is a clear need for more transparency and better accountability systems. One way, of course, is to invest in information systems, which let all the key players know what everyone else is doing, so that decisions by investors, customers, suppliers and current and potential employees are made in a more informed manner. The methods

used by the rapidly growing socially responsible investment (SRI) movement are helping to lead the way. The FTSE4GOOD index¹² is one example. This very public indication of whether or not leading FTSE companies have complied with some minimum environmental and human rights standards has perhaps done more than any other single initiative in the UK, at least, to raise the profile of these issues in corporate boardrooms and shareholder groups. The recent introduction of tougher human rights conditions led to the withdrawal of some companies from the index, which can only have done some good. Another initiative is the Business & Human Rights Resource Centre,¹³ which runs the leading Internet site providing information on what companies are doing both to enhance and constrain human rights. The work depends on an international network of experts plus a small central team, making full use of the latest communication technology to draw attention to reports and breaking news from many sources, for instance from NGOs, academics, journalists and companies themselves. Its purpose is to make available information in an easily accessible way, for others to take action as they think fit.

In principle it should be in the interests of 'good' companies to make sure that 'bad' companies do not get away with cost-saving poor CR performance. It is frustrating for many trying to make progress on these issues that so often those companies which declare themselves to be among the good guys, while leading the way on voluntary initiatives, are the first to resist any moves towards more formal codes of behaviour or regulation designed bring more companies into compliance with minimum standards (i.e. levelling at least the foundations of the field). In the recent debate over the UN Norms on Human Rights a number of companies which to a large extent already apply most of the basic content of the Norms, nevertheless allowed associations of which they are members, like the International Chamber of Commerce, to campaign strongly against the formal adoption of the Norms by the UN Sub Commission on Human Rights. Others, of course, for instance members of the Business Leaders' Initiative on Human Rights (BLIHR),¹⁴ have taken a much more constructive approach by 'road testing' the Norms, in other words examining how applying the Norms in practice impacts their operations and, in March 2006, intending to report their findings. Leading companies clearly do need to come off the fence and take active leadership roles in formulating the necessary rules of the game and influencing the associations to which they belong to do likewise.

The role of NGOs is just as problematic. In a world where representative government is at best weakened in its ability to look after the common interest and at worst unrepresentative and corrupt, NGOs act, with varying degrees of legitimacy, as representatives of particular interests, such as the environment or human rights. Acting as watchdogs and whistle-blowers, they have become a form of counter-vailing power to that wielded by large companies, although with considerably less financial resources

¹² See www.ftse.com/ftse4good/index.

¹³ See www.business-humanrights.org.

¹⁴ See www.blihr.org. BLIHR companies 'road testing' the Norms include ABB, Barclays, Hewlett Packard, MTV Europe, National Grid Transco, Novartis, Novo Nordisk, Statoil and The Body Shop International.

and often less formal rights in existing law. Within this countervailing force there is considerable difference of opinion as whether to pursue undiluted oppositional tactics to what companies are doing or whether to engage in constructive dialogue and even partnership. Indeed more radical groups, like London Rising Tide¹⁵ openly criticise the likes of WWF and Greenpeace for taking part in joint conferences with leading oil and mining companies for selling out to big business and contributing to the plague of 'greenwash'. It is interesting to note that only 10 years ago it was Greenpeace, which first recognised the emerging power of civil society to pressurise companies independently of government action, in its high profile action against Shell and the sinking its Brent Spar oil storage unit in the North Atlantic. Since then the campaigning environmental organisation, like several other leading NGOs, has grown as a 'political' institution and has been drawn into more of a problem solving role alongside its whistle blowing one. It has come to take a more pragmatic view that for all their failings, companies have a huge role to play in solving the world's major problems. They have to be part of the solutions not just a cause of the problems, and they need all the help they can be given. How that help is given, how it is paid for, how NGOs retain their integrity, independence and ability to take oppositional action as required, are current hot issues.

Nevertheless, NGOs do have a major role to play in articulating the expectations on corporate behaviour of civil society and campaigning, through engagement and/or oppositional tactics as necessary, for their realisation. For example, whatever happens to the UN Norms on Business and Human Rights in the long drawn out UN governance process, it is imperative that Amnesty International and other human rights NGOs continue to press companies to adopt them as the basis for their human rights performance. They are the new level of expectations that society is placing on companies. There is every reason to believe that this will make a difference to people whose human rights are under threat in many different ways in countries where these companies are operating. NGOs should resist calls to switch their focus back to just national governments. They need to work on both companies and governments. While it is important that they are not hoodwinked by 'greenwash', there is no reason for constructive NGOs to draw back on efforts to encourage worthwhile if still small advances as described in the cases above, as long as they can be genuinely seen to be a positive step towards larger and longer lasting solutions. Meanwhile, the London Rising Tides of this world have every right to campaign as they do and have an important point to make but they would do better if they also articulated a realistic vision of how to create the 'more compassionate system than capitalism' that they want.

It is very much part of the role of NGOs to try to influence governments on how they can, in turn, influence companies to take on responsibilities for environmental and social issues. Most NGO staff and volunteers instinctively want to pressurise governments to regulate company behaviour, for instance to bring in compulsory social reporting and make companies liable to prosecution for complicity in human rights abuses in third world countries. While these campaigns should continue because they are necessary parts of any long term solution to making all companies take these issues

¹⁵ See <http://risingtide.org.uk>.

seriously, there are many less politically difficult things that governments can be persuaded to do in the shorter term. Their position on processes like the UN Norms and the OECD guidelines for multinational companies can be influenced by well organised lobbying, not least by persuading leading companies to add their voices for constructive change. Governments can be persuaded to give public praise to top performing companies and reward their leaders with recognition and invitations to prestigious networking events, which are very highly prized in the business world. Perhaps most significantly, in every country governments are large customers of many of the companies NGOs are concerned about. There are huge opportunities to influence government purchasing decisions and contract clauses to reflect company environmental and social performance as well as its price competitiveness. Finally many companies trading abroad do so with the help of Government Export Credit Guarantees. These conditions can also be influenced.

6. Conclusion

This paper set out to refute both Bakan's argument that CSR is largely a smokescreen designed to distract governments from their proper role in regulating for market failure and The Economist's argument that CSR distracts companies from their main profit-making activities and, therefore, reduces the value they create for society. Both argue that the issues CSR seeks to address are the proper concern of governments. Through a number of examples, it was shown that companies, which understand and put into practice their corporate responsibility (CR, see footnote 3) can make a positive contribution to public welfare through the manner in which they operate, beyond the value of their product or service and the incomes they generate. From a short term profit-making point of view, managing this contribution may be a distraction and it does not come without cost. Nor should it be, however, as social and environmental costs should be factored into the costs of production. Ethically it is certainly the right thing to do and often, as in the case of oil and gas exploration, it is a crucial part of earning a 'licence to operate'. In the wider sense it is part of the way in which companies can begin to earn the trust of society that they do not put profit before principle.

A pressing problem is how to create a more effective regulatory environment to 'level the playing field' by making the market take account of social and environmental costs and benefits. It was argued that CR could not justifiably be seen as a hindrance to the effective evolution of a proper market governance system. On the contrary it is a crucial part of the only realistic game in town and could become a building block in the evolution of 'soft' into 'hard' law. The final section of this paper suggested a number of ways in which CR could be encouraged and made more effective, chiefly by investing in better information systems from which greater transparency and accountability could be achieved.

Clearly, no sensible person would recommend a governance system which depends totally on the interplay of market forces, corporate self-governance and pressure from NGOs. It does sound rather like Joel Bakan's undesirable corporate 'Hallelujah' scenario, described above. Corporations do need more effective governance than this and the common interest does need protecting by those with the authority and competence to do so. Nevertheless, while the 'Hallelujah' scenario, in part at least, is the

current reality we need to do all we can to make it work as well as possible. It is not good enough arguing that environmental and social agendas are the proper concern of governments, when governments are manifestly failing to address these agendas adequately. The interplay of NGOs and companies in promoting corporate responsibility does not replace the need for effective government, but it does fill in some of the gaps and encourage governments to understand what they should be doing.

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